

Notice of Allowability

Application No.

09/515,806

Examiner

Delia M. Ramirez

Applicant(s)

COOK ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/26/2004.
2. ☒ The allowed claim(s) is/are 1-4, 7-12, 22, 31-33 and 36-39.
3. ☒ The drawings filed on 13 January 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Status of the Application

Claims 1-4, 7-12, 22, 31-33, 36-39 are pending.

Amendment of claims 4, 12, 22, and cancellation of claim 35 in a communication filed on 1/26/2004 are acknowledged.

Applicant's submission of a copy of a request to express abandon application No. 09/644871, filed on 4/6/2004, is acknowledged.

In view of the abandonment of applications 09/607,200, 09/644,867, 09/644,868, 09/644, 869, 09/644,871, 09/649,161, 09/652,109, 09/710,280, 09/716,475, 09/726,175, 09/726,176, 09/726,789, all of which have a common assignee (Millennium Pharmaceuticals Inc.) with the instant application, the provisional rejection applied to claims 1-4, 7-8, 32-33, 35-39 under 35 USC 102(e) is hereby withdrawn.

Reasons for Allowance

1. The following is an Examiner's statement of reasons for allowance. Although the prior art discloses nucleic acids encoding human and mammalian protein kinases, the Examiner has found no teaching or suggestion in the prior art directed to the nucleic acids of SEQ ID NO:1 or a polynucleotide encoding the polypeptide of SEQ ID NO: 2. The closest homologs to the polynucleotide of SEQ ID NO: 1 are the mouse and human polynucleotides taught by Berlanga et al. (Eur. J. Biochem. 265:754-762, 1999; EMBL accession numbers AJ243533 and AJ243428) and the polynucleotide taught by Duesterhoeft et al. (EMBL accession number AL157497) as cited in previous Office Action Paper No.18, mailed on 7/12/2002. The nucleic acid molecule encoding the mouse homolog (AJ243533) of Berlanga et al. presents 70.8% sequence homology to the nucleic acid molecule of SEQ ID NO: 1. The human homolog (AJ243428) of Berlanga et al. comprises a fragment of 2161 bases encoding a polypeptide of 548 amino acid residues with 100% sequence identity to residues 1134-1643 of the polypeptide of SEQ

ID NO: 2. Duesterhoeft et al. teaches a nucleic acid molecule (AL157497) with 60.3% sequence homology to the polynucleotide of SEQ ID NO: 1 and comprises a fragment of the polynucleotide of SEQ ID NO: 1 (3332 nucleotides). Therefore, claims 1-4, 7-10, 22, 32-33, 36-39, directed to the nucleic acids of SEQ ID NO:1 or to nucleic acids encoding the protein of SEQ ID NO: 2, or variants thereof as encompassed by the claims, claim 11 directed to a host cell comprising said nucleic acids, and claims 12 and 31, directed to a method of use of said polynucleotides, are allowable over the prior art of record.

2. Claims 1-4, 7-12, 22, 31-33, and 36-39 are allowed.


3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Delia M. Ramirez whose telephone number is (571) 272-0938. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ponnathapura Achutamurthy can be reached on (571) 272-0928. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

Delia M. Ramirez, Ph.D.
Patent Examiner
Art Unit 1652

DR
April 9, 2004


REBECCA E. PROFFY
PRIMARY EXAMINER
GROUP 4000
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